

REMARKS

This application has been carefully considered in light of the Office Action of October 6, 2003. In the Office Action, claims 1-7, 9-11 and 13 have been rejected under 35 U.S.C. 102(e) as being anticipated by Carlsson et al., US Patent 6,068,860. Claims 1-9 and 12-13 have been rejected under 35 U.S.C. 103(a) as being obvious and therefore unpatentable over the primary reference to Carlsson when further considered in view of the reference to Brodin et al., US Patent 5,912,271.

Claims 10 and 11 have been rejected under 35 U.S.C. 103(a) as being obvious over Carlsson et al. and Brodin et al. when further considered in view of the teachings of Cooper et al., US Patent 4,552,872.

Reconsideration of the grounds for rejection is respectfully solicited. The issue to be resolved is the interpretation to be given to the term "prolonged" as it relates to the present invention. The Examiner has taken the position that the Carlsson et al. reference discloses a composition which allows for an increased amount of drug penetration at a given site. The Examiner further states that a drug's effectiveness is inherently increased if the drug is allowed to accumulate at a site and thus the accumulation at the site allows for a continued dose at the site which is, in essence, a "prolonging" effect. Applicants

respectfully disagree with the Examiners reasoning.

To interperate the prior art, the ordinary meaning of the words used in the art must be considered as they are disclosed and used within the teachings of the prior art reference without consideration of hind sight after reviewing applicants' specification and claims. The prior art reference to Carlsson et al. is directed to specifically concentrating an active substance wherein the substance is specifically prepared in order to promote rapid penetration of the active substance through layers of the skin to target a specific substance at a target site beneath the skin. The teaching is to rapidly penetrate and concentrate, or in the Examiners words "accumulate".

"Accumulation" is defined in Webster's Encyclopedia Unabridged Dictionary of the English Language, copyright 1996, as meaning "to gather or collect, often in gradual degrees; --- to gather into a heap, mass, cover, etc.; form a steadily releasing quantity." Further, the same dictionary defines "concentrate" to be "to bring or draw to a common center or point of union; coverage; direct toward one point; focus....to intensify; make denser, stronger, or pure".

Neither of the meanings of "accumulative" or "concentrate" would lead one to applicants invention to "prolong" the effective life of an active substance as is taught in the present

application. "Prolong" being defined by the same dictionary referenced above to be "to lengthen out in time; to extend the duration of; to cause to continue longer".

By way of example, if one were to take the prior art active substances taught in the cited reference 6,068,860, and apply them to the surface of the skin even at concentrated levels, there would be no "prolonging" effect of the substance itself over what its normal effect would be when applied in concentrated form. With applicants invention, regardless of the concentration, there is a prolongation of the effect of the active substance on the surface of the skin. Such prolongation would exist without regard to the concentration as set forth in applicants' claim 1.

Given the ordinary meaning of the words used in the reference to Carlsson et al., and due to the end result to be obtained to effectively target and concentrate an active substance at a target site beneath the skin, it is respectfully submitted that this reference does not provide a sufficient nexus to applicants' invention which is directed to a method of prolonging a local topical effect on the skin of an active substance used in a pharmaceutically or cosmetically active cream or lotion.

The Examiner further states that it is believed that

applicants definition of the time period is vague, however, there has been no rejection of the claims under 35 U.S.C. 112, second paragraph. Applicants respectfully submit that the definition is not vague regardless of how many active agents may be considered within the topical cream or lotion. Claim 1 defines that each cream or lotion has a cosmetically or pharmaceutically active substance which exhibits a local effect on the skin for a period of time. This period of time can be defined for each and every active substance. In accordance with applicants' invention, this period of time is prolonged if a galactolipid material is present in the formulation, as is taught in the present application. Further, assuming that the active substance is concentrated, it would exhibit a known local effect for a period of time. This same period of time at a concentrated level would be extended or prolonged by the teaching of the present invention by incorporating galactolipid material.

The methodology taught and set forth in the claims of the present application are not suggested nor taught by the primary reference to Carlsson et al. Therefore, reconsideration of the grounds for rejection with respect thereto is respectfully solicited. As the reference to Carlsson et al., does not suggest the present invention for the reasons set further above, combining either of the secondary references with the teachings

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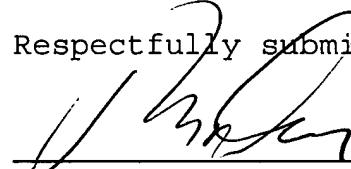
of Carlsson et al. would not anticipate applicants' invention as set forth in the claims currently of record.

In view of the foregoing, reconsideration of the grounds for rejection for obviousness is also respectfully solicited.

In light of the foregoing, favorable consideration and allowance of claims 1-13 is respectfully requested.

As this response is filed after the shortened statutory period, a request for a one (1) month extension of time is also submitted with the required fees. Any deficiencies may be charged to deposit account 04-1577.

Respectfully submitted,

  
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